IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.4582 OF 1998

M/s.National Insulation Services ...Plaintiffs

Versus

M/s.Kehems Eng. Pvt. Ltd. ...Defendants

Shri B.H. Prasad Sharma for the Plaintiffs.

CORAM : ABHAY S.OKA, J.
DATED : JULY 11, 2007.

P.C.:

1. Heard learned counsel appearing for the Plaintiffs. He tenders on record an affidavit of evidence of Mr.B.Vedvyas Kamath, a partner of the Plaintiffs. The original documents are annexed to the said affidavit. The affidavit is taken on record and marked "X" (collectively) for identification.

2. According to the case of the Plaintiff, an offer was given by the Plaintiff to the Defendant to carry out certain insulation work at the site of the Defendants at M/s.Arthur Anderson India Limited at Mumbai. A quotation containing rates was submitted by the Plaintiffs to the Defendants. On the basis of the letter dated 21st January, 1997 the Plaintifff proceeded to carry out the job. According to the case of the Plaintiff certain material was brought to the site.

3. On 21st April, 1997 by a letter, the Plaintiff informed the Defendants about the further progress of work. The Plaintiff also called upon the Defendants to pay the amount on account of the materials delivered at the site.

4. According to the case of the Plaintiffs, on completion of work an invoice/bill dated 17th February, 1997 in the sum of Rs.16,792/- and invoice/bill dated 13th June, 1997 in the sum of Rs.01,36,573.15/- were submitted by the Plaintiff to the Defendants. By a letter dated 17th October, 1997 the Defendants acknowledged of having received a fax copy of invoice dated 03rd June, 1997. By the said letter, the Plaintiffs were called upon to submit a bill duly certified instead of a fax copy. Accordingly, by a letter dated 18th October, 1997 the Plaintiff pointed out to the Defendants that the original Bill dated 03rd June, 1997 duly certified by Mr.N.M.Mehta was submitted to the Defendants in its Bombay office. The Plaintiff forwarded a xerox copy of the bill submitted alongwith duly certified measurements to the Defendants. According to the Plaintiffs, the Defendants did not pay a sum of Rs.58.413.15/- out of the bill amount. There was a correspondence made by the Plaintiff with the

Defendants. A legal notice dated 25th May, 1998 was issued to the Defendants calling upon the Defendants to pay the amount. As the amount is not paid, the suit has been filed.

5. The perusal of the affidavit of Mr. B.Vedvyas Kamath shows that he has proved the claim of the Plaintiff. He has proved the documents which were tendered on record. Therefore, there is no reason to disbelieve the case of the Plaintiff.

6. On the principal amount, interest at the rate of 18 per cent per annum has been claimed by the Plaintiff. The invoice provides for payment of interest at the rate of 24 per cent per annum. The averments made in the plaint are not denied by the Defendants by filing written statement. Hence, a case is made out for passing decree in favour of the Plaintiff. Accordingly, the suit is decreed in terms of prayer clause (a). Certified copy is expedited. The Plaintiffs will be entitled to refund, if any, of the court fees in accordance with relevant rules.

JUDGE